

**ORDINANCE NO. (O)16-15**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, PROHIBITING THE USE OF HANDHELD MOBILE TELEPHONES OR PORTABLE ELECTRONIC DEVICES BY AMENDING CHAPTER 10, OFFENSES, AND ADDING ARTICLE 10-14, DISTRACTED DRIVING, TO THE ORO VALLEY TOWN CODE**

**WHEREAS**, on September 27, 1989, the Town Council adopted a certain document entitled “The Code of the Town of Oro Valley, Arizona; and

**WHEREAS**, The use of handheld mobile telephones and portable electronic devices while operating motor vehicles has shown to cause distracted driving, which increases the risk of motor vehicle crashes; and

**WHEREAS**, the Arizona Legislature, to date, has not enacted legislation directly regulating the use of handheld mobile telephones or portable electronic devices; and

**WHEREAS**, it becomes necessary to enact regulation of the use of handheld mobile telephones and portable electronic devices to protect the welfare, health and safety of the residents of the Town; and

**WHEREAS**, the Mayor and Council have determined that amending Chapter 10, Offenses, by adding Article 10-14, Distracted Driving, is just and appropriate, and is found in the best interest of the Town.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Oro Valley, Arizona that the certain document, known as “The Oro Valley Town Code” is amended as follows:

**SECTION 1.** The Oro Valley Town Code, Chapter 10, Offenses, is hereby amended by adding Article 10-14, Distracted Driving to read as follows:

**Chapter 10  
Offenses**

**ARTICLE 10-14 DISTRACTED DRIVING**

**PROHIBITED USE OF HANDHELD MOBILE TELEPHONE OR PORTABLE ELECTRONIC DEVICE**

**PROHIBITED CONDUCT**

NO PERSON SHALL, EXCEPT AS OTHERWISE PROVIDED IN THIS ORDINANCE, USE A MOBILE TELEPHONE OR PORTABLE ELECTRONIC DEVICE WHILE OPERATING A MOTOR VEHICLE UPON A STREET OR HIGHWAY, UNLESS THAT DEVICE IS SPECIFICALLY DESIGNED OR CONFIGURED TO

ALLOW HANDS-FREE LISTENING AND TALKING AND USED IN THAT MANNER WHILE OPERATING A MOTOR VEHICLE.

**DEFINITIONS**

“**HANDS-FREE USE**” MEANS THE USE OF A MOBILE TELEPHONE OR PORTABLE ELECTRONIC DEVICE WITHOUT THE USE OF EITHER HAND BY EMPLOYING AN INTERNAL FEATURE OF, OR AN ATTACHMENT TO, THE DEVICE.

“**OPERATING**” MEANS BEING IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE ON A HIGHWAY OR STREET AND INCLUDED BEING TEMPORARILY STOPPED BECAUSE OF TRAFFIC, A TRAFFIC LIGHT OR STOP SIGN OR OTHERWISE, BUT EXCLUDES OPERATING A MOTOR VEHICLE WHEN THE VEHICLE HAS PULLED OVER TO THE SIDE OF THE ROAD OR OFF AN AN ACTIVE ROADWAY AND HAS STOPPED AT A LOCATION IN WHICH IT CAN SAFELY REMAIN STATIONARY.

“**HANDHELD MOBILE TELEPHONE**” AND “**PORTABLE ELECTRONIC DEVICE**” MEANS A WIRELESS COMMUNICATION DEVICE THAT IS DESIGNED TO ENGAGE IN CALLS, RECEIVE AND TRANSMIT TEXT, IMAGE MESSAGES, AND DATA AND REQUIRES BEING HELD IN ONE HAND.

**EXEMPTIONS**

THIS SECTION SHALL NOT APPLY TO:

(1) THE USE OF A MOBILE TELEPHONE OR PORTABLE ELECTRONIC DEVICE FOR THE SOLE PURPOSE OF COMMUNICATING WITH ANY OF THE FOLLOWING REGARDING AN IMMEDIATE EMERGENCY SITUATION:

AN EMERGENCY RESPONSE OPERATOR;

AN AMBULANCE COMPANY;

FIRE DISTRICT AND RESCUE SERVICE PERSONNEL;

LAW ENFORCEMENT PERSONNEL;

A HOSPITAL; OR

A PHYSICIAN’S OFFICE OR HEALTH CLINIC.

(2) THE ACTIVATION OR DEACTIVATION OF HANDS-FREE USE, AS LONG AS THE MOBILE TELEPHONE OR PORTABLE ELECTRONIC DEVICE IS SECURELY CONFIGURED AND ATTACHED TO THE VEHICLE OR INTEGRATED INTO THE VEHICLE.

FIRST RESPONDER EXCEPTION:

THIS SECTION DOES NOT APPLY TO AN EMERGENCY SERVICE PROFESSIONAL USING A MOBILE TELEPHONE OR PORTABLE ELECTRONIC DEVICE WHILE OPERATING AN EMERGENCY VEHICLE IN THE COURSE AND SCOPE OF HIS OR HER DUTIES.

**PENALTY**

A VIOLATION OF ARTICLE 10-14 IS A CIVIL TRAFFIC VIOLATION.

A PERSON WHO VIOLATES ARTICLE 10-14 AND IS NOT INVOLVED IN A MOTOR VEHICLE COLLISION IS SUBJECT TO A CIVIL PENALTY OF \$50 FOR THE FIRST VIOLATION, \$100 FOR THE SECOND VIOLATION AND \$200 FOR THE THIRD VIOLATION.

A PERSON WHO VIOLATES TOWN CODE 10-14 AND IS INVOLVED IN A MOTOR VEHICLE COLLISION IS SUBJECT TO A CIVIL PENALTY OF A MINIMUM AMOUNT OF \$250.

**SECTION 2.** The various Town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

**SECTION 3.** If any provisions of this ordinance, or of its application to any person or circumstance is declared invalid or unenforceable, as determined by a court of competent jurisdiction, the invalidity or unenforceability shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and to this end, the provisions of this ordinance are severable.

**SECTION 4.** This ordinance will become effective thirty (30) days after the date of adoption.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Oro Valley, Arizona, this 7<sup>th</sup> day of December, 2016.

**TOWN OF ORO VALLEY**

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Dr. Satish I. Hiremath, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael Standish, Town Clerk

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Tobin Sidles, Legal Services Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_